

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

ORIGINAL

RECEIVED
AUG 12 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Rulemaking to Amend Parts 1, 2, 21, and 25)
of the Commission's Rules to Redesignate)
the 27.5 - 29.5 GHz Frequency Band, to)
Reallocate the 29.5 - 30.0 GHz Frequency)
Band, to Establish Rules and Policies for)
Local Multipoint Distribution Service and)
for Fixed Satellite Services)
)
)
)

CC Docket No. 92-297

DOCKET FILE COPY ORIGINAL

JOINT COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC
TELEVISION STATIONS AND PUBLIC BROADCASTING SERVICE

Marilyn Mohrman-Gillis
Lonna M. Thompson
ASSOCIATION OF AMERICA'S
PUBLIC TELEVISION STATIONS
1350 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036
(202) 887-1700

Paula A. Jameson
Gregory Ferenbach
PUBLIC BROADCASTING SERVICE
1320 Braddock Place
Alexandria, Virginia 22314
(703) 739-5063

August 12, 1996

No. of Copies rec'd
List of CODE

Q410

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Rulemaking to Amend Parts 1, 2, 21, and 25)	CC Docket No. 92-297
of the Commission's Rules to Redesignate)	
the 27.5 - 29.5 GHz Frequency Band, to)	
Reallocate the 29.5 - 30.0 GHz Frequency)	
Band, to Establish Rules and Policies for)	
Local Multipoint Distribution Service and)	
for Fixed Satellite Services)	
)	
)	
)	

**JOINT COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC
TELEVISION STATIONS AND PUBLIC BROADCASTING SERVICE**

The Association of America's Public Television Stations ("APTS") and Public Broadcasting Service ("PBS") (hereinafter "Public Television") submit their joint comments in response to the Commission's First Report and Order and Fourth Notice of Proposed Rulemaking, CC Docket No. 92-297 ("NPRM"), in which the Commission adopts rules for the development of Local Multipoint Distribution Services ("LMDS") in the 28 GHz band and proposes extending LMDS into the 31 GHz band.

APTS is a private, nonprofit membership organization whose members include virtually all of the nation's 350 public television stations. APTS engages in planning and research activities on behalf of its member stations, as well as representing its members in the legislative and policy arenas before the Commission, Congress, and the Executive Branch.

PBS is a private, nonprofit corporation that distributes television programming produced by public television stations. PBS manages public television's satellite interconnection system, the capabilities of which have been expanded with the advent of digital technology.

The APTS and PBS member stations include a large number of university licensees and state networks, as well as local authority and community licensees, that offer a wealth of educational services. These services fulfill a multitude of needs and reach into millions of classrooms, libraries, workplaces, and homes.

Public Television has participated in this proceeding since its inception.¹ In past filings, Public Television has explained the importance of gaining access to a portion of the proposed LMDS spectrum to facilitate distance learning and for use as a cost effective, delivery system for the interactive video and data network of services made available through public broadcasting stations to schools, libraries, and other learning centers.² In addition, Public Television and various educational parties jointly held a position on the Negotiated Rulemaking Committee that attempted to reach a technical solution to sharing the 28 GHz band by the competing terrestrial and satellite interests.

¹ In the Matter of Rulemaking to Amend Part 2 and Part 21 of the Commission's Rules to Redesignate the 27.5 -29.5 GHz Frequency Band and to Establish Rules and Policies for Local Multipoint Distribution Service, Notice of Proposed Rulemaking, Order, Tentative Decision and Order on Reconsideration, 8 FCC Rcd 557 (1993); Second Notice of Proposed Rulemaking, 9 FCC Rcd 1394 (1994), Third Notice of Proposed Rulemaking and Supplemental Tentative Decision, 11 FCC Rcd 53 (1995).

² See APTS and PBS Joint Comments, filed March 16, 1993; Joint Reply Comments, filed April 15, 1993; Response to the FCC's Public Notice on Establishment of a Negotiated Rulemaking Advisory Committee, filed March 21, 1994; and Joint Comments filed September 7, 1995. See also the Educational and Public Telecommunications Entities' filing in the Negotiated Rulemaking process, Recommendations for Assurance of Access by Educational and Public Telecommunications Entities in the Event That Spectrum Auctions Are Used For Award of LMDS Licenses, NRMC-111, included in the Addenda to the Report of the LMDS/FSS 28 GHz Band Negotiated Rulemaking Committee, September 23, 1994.

Public Television continues to support the Commission's segmentation scheme for the 28 GHz band and the proposed set aside of an additional 300 MHz for LMDS at 31 GHz. The proposed LMDS rules, however, do not reserve capacity for noncommercial educational use, nor require that some portion of LMDS capacity be afforded to noncommercial educational entities at free or preferential rates. Public Television remains concerned that, without reservation of LMDS spectrum for noncommercial use or offering LMDS capacity at discounted rates, noncommercial educational entities may be denied access to LMDS services because they simply cannot compete financially against commercial interests under the FCC auction rules. Public Television assumes that in its final rules regarding LMDS, the Commission will carefully consider steps to permit and encourage such educational uses.

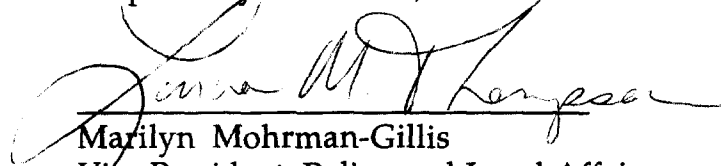
In particular, the LMDS service rules should be as flexible as possible and permit subleasing by LMDS operators so that public broadcasters and other educators may be afforded the opportunity by LMDS licensees to use this technology for educational services. The Commission should also consider special licensee incentives connected to educational access, such as reduced fees for licensees offering educational discounted rates. Further, the Commission should consider incorporating educational access requirements into any LMDS license renewal requirements that it adopts.

CONCLUSION

Public Television continues to support the Commission's establishment of LMDS and the proposed additional LMDS allocation at 31 GHz. However, Public Television is still awaiting assurance by the

Commission that it will include in its final LMDS rules some means of allowing educational, noncommercial uses of LMDS for the interactive services so essential to the educational process.

Respectfully submitted,



Marilyn Mohrman-Gillis
Vice President, Policy and Legal Affairs
Lonna M. Thompson
Director, Legal Affairs
ASSOCIATION OF AMERICA'S
PUBLIC TELEVISION STATIONS
1350 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036
(202) 887-1700



Paula A. Jameson
Senior Vice President, General
Counsel & Secretary
Gregory Ferenbach
Deputy General Counsel
PUBLIC BROADCASTING SERVICE
1320 Braddock Place
Alexandria, Virginia 22314
(703) 739-5063

August 12, 1996